

Chapter 208

WATERFRONT CONSISTENCY REVIEW

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[HISTORY: Adopted by the Town Board of the Town of Greece 7-18-2000 by L.L. No. 5-2000. Amendments noted where applicable.]

GENERAL REFERENCES

Coastal erosion hazard area — See Ch. 83.	Freshwater wetlands — See Ch. 120.
Environmental impact statement review — See Ch. 100.	Zoning — See Ch. 211.
Flood damage prevention — See Ch. 117.	

§ 208-1. Title.

This chapter will be known as the “Town of Greece Waterfront Consistency Review Law.”

§ 208-2. Authority and purpose.

- A. This chapter is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this chapter is to provide a framework for agencies of the Town of Greece to consider the policies and purposes contained in the Town of Greece Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in Greece's coastal areas and to assure that such actions and direct actions are consistent with said policies and purposes.
- C. It is the intention of the Town of Greece that the preservation, enhancement, and utilization of the natural and man-made resources of the unique waterfront areas of Greece take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development and attract the traveling public.
- D. The substantive provisions of this chapter shall only apply while there is in existence a Town of Greece Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

§ 208-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACTIONS —

- A. Either Type I or unlisted actions as defined in Article 8 (the State Environmental Quality Review Act) of the New York State Environmental Conservation Law and 6 NYCRR Part 617 et seq., the implementing regulations therefor (the "SEQRA regulations"), which are undertaken by an agency and which include:
- (1) Projects or physical activities, such as construction or other activities, that may affect the environment by changing the use, appearance or condition of any natural resource or structure that:
 - (a) Are directly undertaken by an agency;
 - (b) Involve funding by an agency; or
 - (c) Require one or more new or modified approvals from an agency or agencies;
 - (2) Agency planning and policy-making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - (3) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions, that may affect the environment;
 - (4) Any proposed action within the Town's Local Waterfront Revitalization Area that requires site plan review and approval by the Town of Greece; and
 - (5) Any combination of the above.
- B. This chapter does not apply to Type II actions as defined in the SEQRA regulations.

AGENCY — Any board, agency, department, office, other body, or officer of the Town of Greece.

COASTAL AREA — That portion of New York State coastal waters and adjacent shore lands as defined in Article 42 of the Executive Law which is located within the boundaries of the Town of Greece, as shown on the Coastal Area Map on file in the office of the Secretary of State and as delineated in the Town of Greece Local Waterfront Revitalization Program.

COASTAL ASSESSMENT FORM (CAF) — The form used by an agency to assist it in determining the consistency of an action with the Town of Greece Local Waterfront Revitalization Program.

CONSISTENT — That the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.

DIRECT ACTIONS — Actions planned and proposed for implementation by an agency, including but not limited to a capital project, rule making, procedure making, and policy making.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) — The Local Waterfront Revitalization Program of the Town of Greece, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law Article 42), a copy of which is on file in the office of the Town of Greece Town Clerk.

PLANNING BOARD — The Planning Board of the Town of Greece.

§ 208-4. Authority of Planning Board.

The Planning Board is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the Town of Greece Local Waterfront Revitalization Program policy standards and conditions.

§ 208-5. Review of actions.

- A. Whenever a proposed action is located within the Town's coastal areas, an agency shall, prior to undertaking, funding or approving the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Subsection J herein.
- B. Each agency of the Town shall be responsible for making its own consistency determinations.
- C. Where more than one local agency is involved in reviewing a proposed action, the lead agency (as that term is defined in the SEQRA regulations) shall be responsible for making the determination that the proposed action is consistent with the LWRP policy standards and conditions set forth in Subsection J herein.
- D. The consistency determination process required by this chapter shall be coordinated with the environmental review process set forth in the SEQRA regulations to the greatest extent possible.
- E. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the coastal area, the applicant or, in the case of a direct action, the agency shall prepare a coastal assessment form (CAF) to assist with the consistency review of the proposed action.
- F. The agency shall refer a copy of the completed CAF to the Planning Board within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Planning Board with reference to the consistency of the proposed action with the Town's Local Waterfront Revitalization Program.
- G. After referral from an agency, the Planning Board shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Subsection J herein. The Planning Board shall require the applicant to submit all completed applications, CAFs, and any other information deemed necessary to its consistency review and recommendation.

- H. The Planning Board shall render its written recommendation to the agency within 30 days following referral of the CAF from the agency, unless extended by mutual agreement of the Planning Board and the applicant or, in the case of direct action, the agency. The recommendation shall indicate whether, in the opinion of the Planning Board, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its opinion.
- (1) The Planning Board shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them. When formulating its recommendation, the Planning Board may solicit comments from interested individuals and organizations.
 - (2) In the event that the Planning Board's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Planning Board's recommendation.
- I. The agency shall make the determination of consistency based on the CAP, SEQRA documents, the application and project documentation, the Planning Board recommendation and relevant recommendations from other agencies, comments from interested individuals and organizations and such other information as is deemed to be necessary in its determination. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this chapter.
- J. Actions to be undertaken within the Town of Greece coastal areas shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Town of Greece LWRP, a copy of which is on file in the Town Clerk's office and available for inspection during normal business hours. Agencies that undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:
- (1) Revitalize the deteriorated and underutilized waterfront areas of the Town of Greece (Policy 1).
 - (2) Facilitate the siting of water-dependent uses and facilities on or adjacent to the coastal waters of the Town of Greece (Policy 2).
 - (3) Strengthen the economic base of smaller harbor areas by encouraging the development and enhancement of those traditional uses and activities that provided such areas with their unique maritime identity (Policy 4).
 - (4) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
 - (5) Expedite local permit procedures within the waterfront area (Policy 6).

- (6) Protect, preserve and, where practicable, restore significant and locally important fish and wildlife habitats so as to maintain their viability as habitats and prevent human disruption and chemical contamination (Policies 7 and 8).
- (7) Encourage and expand recreational fishing facilities to promote recreational fishing opportunities (Policy 9).
- (8) Minimize flooding and erosion hazards through nonstructural means; carefully selected, long-term structural measures; and appropriate siting of structures (Policies 11, 12, 13, 14 and 17).
- (9) Safeguard economic, social, and environmental interests in the coastal areas when major actions are undertaken (Policy 18).
- (10) Maintain and improve public access to the shoreline and the water-related recreational facilities while protecting the environment (Policies 19, 20, 21 and 22).
- (11) Protect and restore historic and archaeological resources (Policy 23).
- (12) Protect and upgrade scenic resources (Policy 25).
- (13) Site and construct energy facilities in a manner that will be compatible with the environment and the need for a waterfront or water location (Policy 27).
- (14) Protect surface and ground waters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 37, 38, 39, 40 and 44).
- (15) Maintain the air quality of the coastal areas (Policies 41, 42 and 43).
- (16) Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15 and 35).
- (17) Handle and dispose of solid and hazardous wastes and effluents in a manner that will not adversely affect the environment or expand existing landfills (Policies 34, 35, 36 and 39).

K. Findings.

- (1) If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that:
 - (a) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
 - (b) The action would be undertaken in a manner that will minimize all adverse effects of such LWRP policy standards and conditions;
 - (c) The action will advance one or more of the other LWRP policy standards and conditions; and

- (d) The action will result in an overriding Town, regional or statewide public benefit.
 - (2) Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.
- L. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendation received from the Planning Board. Such files shall be made available for public inspection upon request.

§ 208-6. Enforcement.

The Director of Technical Services (or his designee) shall be responsible for enforcing this chapter. No work or activity on a project in the coastal areas which is subject to review under this chapter shall be commenced or undertaken unless and until the Director of Technical Services has been presented with a written determination from an agency that the action is consistent with the Town's LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this chapter or any conditions imposed thereunder, the Director of Technical Services shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect.

§ 208-7. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any conditions imposed by, this chapter shall have committed a violation. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.
- B. The Town Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The Town may also enforce this chapter by injunction or other civil proceeding.